

Memorandum 2001-10**Statutes Made Obsolete by Trial Court Restructuring:
County-Specific Municipal Court Statutes**

More than half the provisions of Title 8 of the Government Code (Organization and Government of Courts) are devoted to details of structure and employment in the municipal courts in various judicial districts in the state. That is because the California Constitution requires the Legislature to prescribe the number, qualifications, and compensation of judges, officers, and employees of the municipal courts. Cal. Const. Art. VI, § 5(c). With unification of the trial courts in every county but Kings, and with the elimination of the municipal court on unification, these statutes are now largely obsolete. See Cal. Const. Art. VI, § 5(e). Statutes governing unification prevail over contrary county-specific statutes relating to the municipal courts. Gov't Code § 70215.

Some of the municipal court statutes may have continuing relevance, however. The transitional provisions for trial court unification make clear that, pending further legislative action, the municipal court judges become superior court judges, the municipal court personnel become superior court personnel and preserve their salaries, benefits, and employment rights, and the municipal court locations become superior court locations. See Cal. Const. Art. VI, § 23; Gov't Code §§ 70210-70219.

In the case of personnel issues, the Legislature has now acted to provide a statewide structure for trial court employees, officers, and other personnel. That is the new Trial Court Employment Protection and Governance Act. Gov't Code §§ 71600-71674. That act will completely supersede comparable county-specific provisions governing authority to hire, classification, compensation, labor relations, employment selection and advancement, employment protection, personnel files, etc. The act eclipses the unification transitional provisions preserving the status quo pending legislative action on the matter.

The staff proposes as an initial matter to repeal the county specific statutes relating to the municipal courts in every county in which the municipal courts no longer exist as a result of unification. We would provide commentary explaining which specific provisions of law supersede the former municipal court statutes.

However, we would examine each statute individually, and if it appears that a particular provision has continuing relevance, either because it deals with matters not covered by supervening law or because there are transitional provisions that have continuing relevance, we would either preserve the particular provision or add a savings clause that covers it.

A major issue in this regard will be treatment of the county-specific court reporter statutes. Court reporters in some counties are not court employees and are therefore not covered by the Trial Court Employment Protection and Governance Act.

We would send the initial draft to interested persons, including court management and employee representatives in each county, for review and comment, and make any revisions or refinements that appear called for. It is hoped that in this way we can develop a consensus package that will enable us to clean out the voluminous municipal court staffing statutes from the code, without undue consumption of Commission time.

As illustrative of the approach we envision, let us take as an example the relatively simple body of statutes relating to San Mateo County.

Gov't Code §§ 73520-73530 (repealed). Municipal court in San Mateo County

SEC. __. Article 6 (commencing with Section 73520) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73520 to 73530, relating to the municipal court in San Mateo County, are repealed as obsolete. The municipal court in San Mateo County no longer exists, as the result of unification with the superior court effective June 12, 1998.

Sections 73520 to 73530 are superseded by the following provisions:

- 69599 (number of judges in San Mateo County)
- 71620(a) (job classifications and appointments)
- 71620(b) (executive or administrative officer)
- 71623 (salaries)

☛ **Staff Note.** We have not referred in this Comment to superseding provisions on the following matters. These will be dealt with in more detail in separate memoranda:

- Subordinate judicial officers (court commissioners)
- Sheriffs and marshals
- Court reporters

The text of the repealed provisions is set out below.

ARTICLE 6. MUNICIPAL COURT IN SAN MATEO COUNTY

73520. This article applies only to the San Mateo County Judicial District.

73521. There shall be nine judges of the San Mateo County Judicial District.

73522. There shall be three court commissioners for the San Mateo County Judicial District, to be appointed by a majority of the municipal court judges.

At the direction of the judges, the commissioners may have the same jurisdiction and exercise the same powers and duties as commissioners of superior courts and as the judges of the municipal courts with respect to all subordinate judicial functions of the courts. The commissioners shall possess the same qualifications required of a municipal court judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of the law. They shall be ex officio deputy clerks.

Court commissioners shall receive a salary representing 80 percent of the annual salary for a superior court judge. The commissioners shall be entitled to the same employee benefits which are provided for other attaches and employees of the court, as determined by the board of supervisors.

73523. The consolidated superior and municipal courts judges may, by a majority vote, appoint a court executive officer who shall be the clerk of the superior and municipal courts of San Mateo County. The court executive officer shall serve at the pleasure of a majority of the judges. The court executive officer shall receive a biweekly salary at the rate specified in salary range number 5207 of the salary schedule. However, that salary may be adjusted pursuant to Section 73525. The court executive officer shall be the appointing authority for the positions listed in Section 73524.

The superior and municipal court judges shall prescribe and regulate by majority vote the duties and authority of the court executive officer, among which shall be:

(a) To direct and coordinate the nonjudicial activities of the consolidated superior and municipal courts.

(b) To coordinate the personnel practices in compliance with rules of the consolidated courts, California Rules of Court, or other pertinent rules or statutes.

(c) To prepare and administer the budget of the consolidated courts.

(d) To coordinate with county agencies, the acquisition, utilization, maintenance, and disposition of facilities, equipment, and supplies necessary for the operation of the consolidated courts.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges relating to the business of the consolidated superior and municipal courts, including, but not limited to, such matters as standardization of forms and procedures, and of classification and compensation of court attaches.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the consolidated superior and municipal courts and to prepare periodic reports and recommendations based on that data.

(g) To provide for and conduct a program of in-service training for the personnel of the consolidated superior and municipal courts.

(h) To prepare procedure guides for the personnel of the consolidated superior and municipal courts.

(i) To make arrangements for and attend all meetings of the judges.

(j) To serve as liaison for the consolidated superior and municipal courts with other persons, committees, boards, groups, and associations as directed by the presiding judge.

73524. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes compensation for each job classification, are as follows, subject to the authority of the board of supervisors to adjust the monthly salary pursuant to Section 73525:

Salary Range		
Number	Classification	Number
1	Deputy District Attorney III	4498
3	Deputy Court Executive Officer	3885
1	Deputy District Attorney II	3700
1	Financial Services Manager II	3700
1	Family Court Services Manager	3547
1	Information Technology Manager	3523
2	Supervising Research Attorney	3498
3	Court Services Manager II	3355
1	Information Technology Analyst	3139
1	Chief Court Investigator	3044
6	Management Analyst III	2897
2	Senior Accountant	2801
7	Research Attorney	2752
7	Family Court Counselor	2630

3	Court Investigator	2527
2	Information Technology Technician	2488
1	Community Program Specialist III	2365
3	Accountant I/II	1954/2284
1	Interpreter Services	2271
6	Court Services Manager I	2271
12	Municipal Court Clerk Supervisor	2271
1	Executive Assistant	2131
20	Municipal Courtroom Clerk	2096
25	Superior Courtroom Clerk II	2096
1	Judicial Secretary	1933
3	Legal Secretary II	1841
8	Jury Office Specialist	1765
18	Lead Deputy Court Clerk	1765
1	Senior Utility Worker	1764
3	Fiscal Office Specialist	1754
1	Lead Legal Office Assistant	1751
7	Legal Office Specialist	1751
2	Administrative Secretary III	1751
1	Legal Exhibits Technician	1680
1	Lead Data Entry Operator	1668
2	Lead Fiscal Office Assistant	1668
1	Office Specialist	1627
1	Legal Word Processor	1627
3	Administrative Secretary II	1668
1	Utility Worker II	1601
104	Deputy Court Clerk I/II	1470/1593
1	Public Service Specialist	1546
8	Fiscal Office Assistant II	1531
3	Data Entry Operator II	1472
5	Office Assistant II	1472

73524.1. Whenever reference to a salary other than that of commissioner is made in any section of this article, the schedule of salaries found in the salary and benefits resolution of the County of San Mateo in effect on March 1, 1990, shall apply. However, adjustments to those salaries may be made pursuant to Section 73525.

73525. Subject to Section 72001, the compensation for any classification listed in Section 73523 or 73524 may be increased pursuant to the San Mateo County Salary Ordinance Resolution and Memoranda of Understanding, if any, with the recognized labor organizations representing court employees. Whenever a reference to a salary range number is made in this article, the following schedule of biweekly salaries shall apply:

Number	Salary Range			Steps	
	A	B	C	D	E
1470	940.80	994.40	1052.00	1112.00	1176.00
1472	942.40	996.00	1053.60	1113.60	1177.60
1531	980.00	1036.00	1095.20	1158.40	1224.80
1546	989.40	1046.40	1106.40	1169.60	1236.80
1593	1019.20	1078.40	1140.00	1205.60	1274.40
1601	1024.80	1083.20	1145.60	1211.20	1280.80
1627	1041.60	1100.80	1164.00	1231.20	1301.60
1668	1067.20	1128.80	1193.60	1261.60	1334.40
1680	1075.20	1136.80	1202.40	1271.20	1344.00
1751	1120.80	1184.80	1252.80	1324.80	1400.80
1754	1122.40	1187.20	1255.20	1327.20	1403.20
1764	1128.80	1193.60	1262.40	1334.40	1411.20
1765	1129.60	1194.40	1263.20	1335.20	1412.00
1841	1178.40	1245.60	1317.60	1392.80	1472.80
1933	1236.80	1308.00	1383.20	1462.40	1546.40
1954	1250.40	1322.40	1398.40	1478.40	1563.20
2096	1341.60	1418.40	1500.00	1585.60	1676.80
2131	1364.00	1442.40	1524.80	1612.00	1704.80
2271	1453.60	1536.80	1624.80	1718.40	1816.80
2284	1461.60	1545.60	1634.40	1728.00	1827.20
2365	1513.60	1600.80	1692.00	1789.60	1892.00
2488	1592.00	1684.00	1780.00	1882.40	1990.40
2527	1617.60	1710.40	1808.00	1912.00	2021.60
2630	1683.20	1780.00	1881.60	1989.60	2104.00
2752	.00	1862.40	1968.80	2082.40	2201.60
2801	1792.80	1895.20	2004.00	2119.20	2240.80
2897	1854.40	1960.80	2072.80	2192.00	2317.60
3007	1924.80	2035.20	2152.00	2275.20	2405.60
3044	1948.00	2060.00	2178.40	2303.20	2435.20
3139	2008.80	2124.00	2246.40	2375.20	2511.20
3355	2147.20	2270.40	2400.80	2538.40	2684.00
3498	2238.40	2367.20	2503.20	2646.40	2798.40
3523	2254.40	2384.00	2520.80	2665.60	2818.40
3547	2270.40	2400.00	2538.40	2684.00	2837.60
3700	2368.00	2504.00	2647.20	2799.20	2960.00
3885	2486.40	2628.80	2780.00	2939.20	3108.00
4498	2878.40	3044.00	3218.40	3403.20	3598.40
5207	3332.80	3524.00	3725.60	3939.20	4165.60

73526. Notwithstanding any other provision of this article, until the 61st day after the final adjournment of the next regular session of the Legislature, whenever a higher compensation is provided for in positions in the classification of staff clerk I in the San Mateo

County classified service, each person holding a position in any of the classifications specified in this article shall receive proportionately higher compensation on the salary schedule provided for in Section 73525, payable at the same time as that higher compensation provided in the salary ordinance of that county.

73527. The sheriff shall be ex officio marshal and his or her designated deputies shall be ex officio deputy marshals of the courts unless otherwise ordered by the judges of the respective judicial districts.

73528. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of Chapter 8 and the other provisions of this article, and in order to equalize the compensation of employees of the consolidated superior and municipal court with the compensation paid to county employees with commensurate duties and responsibilities, upon recommendation of the clerk of the court with the approval of the judges of the consolidated superior and municipal courts and the Board of Supervisors of the County of San Mateo, an officer or an attache of the court, whether appointed under the provisions of this article or under Article 4 (commencing with Section 72150) of Chapter 8, may be paid any compensation, which is within the ranges and increments set forth in this article in excess of or less than the maximum to which such employee would otherwise be entitled. However, that any such salary adjustment shall not extend longer than 90 days after the adjournment of the next general session of the Legislature.

73529. Official reporters shall be appointed by the judges of the consolidated superior and municipal courts pursuant to the provisions of Section 70043 or 72194 and shall serve at the pleasure of the judges.

(a) The biweekly salary of each official reporter for the performance of duties required of each reporter by law shall be at the rates specified in salary range number 3007 of the salary schedule.

At the time each reporter is hired, the salary of that reporter shall be fixed in the same manner as provided for classified or unclassified employees of the county under the authority of the county charter. A step advancement from step A to step B may be granted on the first day of the pay period following completion of 26 full weeks of service in the position. A person may advance to steps C, D, and E upon completion of successive 52-week periods of service. All merit increases as provided herein shall be made at the determination of the judges of the court.

The per diem compensation for pro tempore reporters shall be one-tenth of step E in the biweekly salary range established for official reporters, except that the rate of per diem compensation shall be prorated on the basis of one-half day of compensation if the pro tempore reporter renders only one-half day of service.

(b) Vacation allowances and sick leave allowances for official reporters shall be the same as provided for classified or unclassified employees of the county under the authority of the county charter.

(c) During the hours which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

Each official reporter shall perform the duties required of him or her by law. In addition, the reporter shall render stenographic or clerical assistance, or both, to the judge or judges of the consolidated superior and municipal courts as the judge or judges may direct.

73530. A reporter's filing fee of eleven dollars and fifty cents (\$11.50) shall be paid in actions and proceedings as specified in Section 68090.5.

Gov't Code § 69599 (amended). Number of judges in San Mateo County

SEC. __. Section 69599 of the Government Code is amended to read:

69599. In San Mateo County there are ~~16 judges of the superior court. However, at such time as the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 17~~ 26 judges of the superior court.

Comment. Section 69599 is amended to reflect unification of the municipal and superior courts in San Mateo County. See former Section 73521 (number of judges in San Mateo County Judicial District).

Uncodified (added). Saving clause

SEC. __. If a statute, order, rule of court, memorandum of understanding, or other legally effective instrument provides that a right, privilege, duty, authority, or status based on a provision repealed by this act continues for a period beyond the effective date of the repeal, that provision continues in effect for that purpose, notwithstanding its repeal by this act.

☛ **Staff Note.** Due to the size of this project, it is likely that several bills will be needed to effectuate the statutory cleanup. A

similar savings clause in each bill is probably mechanically simpler than a single codified section that somehow subsumes all bills.

Respectfully submitted,

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